IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1389 of 2007
To
FIRST APPEAL No. 1403 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 2 - Appellant(s)
Versus
PATEL SHANKARBHAI PARSOTTAMDAS - Defendant(s)

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Appearance in FA 1389 to 1396 of 2007:
MR SUNIT S. SHAH GOVERNMENT PLEADER for Appellant(s)
MR JAYESH M. PATEL, for Defendant(s)

Appearance in FA 1397 to 1403 of 2007:
MR HEMANG H. PARIKH, ASSTT GOVERNMENT PLEADER for Appellant(s)
MR JAYESH M. PATEL, for Defendant(s)

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 23/03/2007

COMMON ORAL JUDGMENT

1. **ADMIT.** Mr. Jayesh M. Patel, learned advocate,

waives service of admission on behalf of the respondents. At the request of the learned advocates for the parties, the matters are taken up for final hearing. Record and proceedings of the case are available.

2. These appeals arise from common judgment and award dated 30.7.2005 made by the Presiding Officer, 6th Fast Track Court, Mehsana in Land Acquisition Reference Nos. 424 of 2004 to 438 of 2004. Hence, these appeals are heard together and, now, they are being disposed of by this common judgment.

3. The lands, being agricultural lands, situated at village Daran, Taluka Kadi, District Mehsana were required for construction of the Narmada Canal. Hence, notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published on 21.8.1998. It was followed by declaration under Section 6 of the Act, which was published on 9.7.1999. After complying with all the requirements, the Special Land Acquistion Officer made the award on 6.7.2001. By the said award, he granted compensation at the rate of Rs.6/- per Sq. Mtr. However, since the claimants were dissatisfied with the quantum of compensation awarded by the Land Acquisition Officer, they sought references under Section 18 of the Act, which, ultimately, culminated into the aforesaid reference cases.

On the basis of the material produced before it, the Reference Court held that the compensation

awarded by the Special Land Acquisition Officer was inadequate. The learned Judge took into consideration the judgment produced by the claimants, which was delivered by this Court in First Appeal Nos. 2445 of 2000 to 2468 of 2000. Subject matter of the said appeals was also the lands of village Daran. They were acquired for the same purpose, i.e. construction of the Narmada Canal. The judgment is produced at Exh.14. On the basis of the same and taking into account the annual rise in the price at 10%, the Reference Court held that the claimants were entitled to receive Rs.45.22 ps. per Sq.Mtr. The Court, however, rounded the figure at Rs.45/- per Sq. Mtr. The Reference Court, therefore, passed the award granting compensation of Rs.45/- per Sq. Mtr., i.e. additional sum of Rs.39/- per Sq.Mtr., for all kinds of lands. Hence, these appeals.

4. I have Mr. H.H. Parikh, learned Assistant Government Pleader appearing for the appellants, and Mr. Jayesh M. Patel, learned advocate appearing for the respondents-claimants.

5. It is submitted by Mr. Parikh that there is a considerable distance between the lands in question and the lands forming subject matter of Exh.14. He submitted that, keeping this in view, the award of the Reference Court appears to be on higher side. As against that, Mr. Patel, learned advocate, has supported the judgment of the Reference Court and has submitted that the Reference Court has rightly awarded Rs.45/- per Sq.Mtr.

6. Having carefully considered the rival submissions and having carefully perused the record of the case, it appears that both the lands, i.e. the lands in the present case as well as the lands forming subject matter of Exh.14, are situated at village Daran. They were acquired for the same purpose, namely construction of Narmada canal. In the earlier case, notification under Section 4 of the Act was issued on 1.8.1991. The Division Bench of this Court, in its judgment, assessed the compensation at Rs.26.60 ps. per Sq.Mtr. It is, in the evidence of Babubhai Jivaram Patel and Rami Natvarlal Vitthaldas- Exhibits 21 and 24, stated that judgment of the Division Bench dated 17.03.2001 has become final since it was not challenged in the Apex Court. Thus, when the judgment of the Division Bench of this Court is considered for assessing compensation, the Reference Court has rightly relied on it and has assessed compensation at Rs.45/- per Sq.Mtr. In the present case, this Court determined the market value at Rs.22.60 per Sq.Mtr. Notification, as stated above, is dated 1.8.1991. In the present case, notification under Section 4 is dated 21.8.1998. Therefore, it is seven years after the earlier notification. The Reference Court kept in view this factum and has given increase of 10% in market value every year. 10% of Rs.26.60 ps. for seven years would come to Rs.18.62 ps. per Sq.Mtr. and after adding Rs.18.62 per Sq.Mtrs. to Rs.26.60 ps., rate comes to Rs.45.22 ps. per Sq.Mtr. The Reference Court has rounded the figure as Rs.45/- per Sq.Mtr. I do not see any reason to disturb the said findings. It is simply based on the earlier decision of this Court

wherein all the relevant aspects have been taken into consideration.

7. In view of the above, I do not find any merits in the appeals. Hence, these appeals are dismissed with no order as to costs.

Sd/-

(AKSHAY H. MEHTA, J.)

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